

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Faria Tasnim	Team: Squad #5	CCRB Case #: 201810157	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 11/19/2018 7:49 PM	Location of Incident: inside Brooklyn Central Booking (120 Schermerhorn Street)	Precinct: 84	18 Mo. SOL 5/19/2020	EO SOL 1/3/2021	
Date/Time CV Reported Wed, 11/28/2018 3:34 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 12/06/2018 11:34 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM John Raphael	24651	962715	094 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Edward Rodriguez	23725	963237	094 PCT
2. PA Dominick Longo		368714	

Officer(s)	Allegation	Investigator Recommendation
A.POM John Raphael	Force: Police Officer John Raphael struck § 87(2)(b) with a blunt instrument.	

Case Summary

On November 27, 2018, § 87(2)(b) filed this complaint in person at § 87(2)(b) by reporting the incident to Sgt. Jared Delaney of the 83rd Precinct, who had responded to the hospital due to a 911 call § 87(2)(b) made that day. Capt. Ronald Casazza of the Force Investigations Division interviewed § 87(2)(b) at the hospital and then notified IAB of his complaint by phone, generating original log number 18-46499. The CCRB received the complaint on December 6, 2018.

On November 19, 2018, at approximately 7:49 p.m., inside Brooklyn Central Booking at 120 Schermerhorn Street in Brooklyn, Police Officer John Raphael allegedly struck § 87(2)(b) in the head with a blunt instrument (**Allegation A: Force, § 87(2)(g)**).

The investigation obtained video surveillance footage from various cameras in Brooklyn Central Booking which captured the incident as well as other portions of § 87(2)(b)'s post-arrest processing (Board Review 01-02).

This case was reassigned from Inv. Ridge to the undersigned on May 9, 2019.

Findings and Recommendations

Allegation (A)—Force: Police Officer John Raphael struck § 87(2)(b) with a blunt instrument.

It is undisputed that PO Raphael struck § 87(2)(b) in the side of the head or face while cutting off his sweatshirt strings as part of the intake process at Brooklyn Central Booking (BCB).

The investigation did not obtain an independent account from § 87(2)(b) regarding how he first complained to the NYPD about the incident. According to Capt. Casazza's ISAR, § 87(2)(b) called 911 six days after the incident and reported that he had been hit in the head a few days prior (Board Review 05). § 87(2)(b) was transported to § 87(2)(b), and Sgt. Delaney responded to the hospital to meet with § 87(2)(b) told Sgt. Delaney that an officer struck him in the head at BCB.

Capt. Casazza responded to the hospital and interviewed § 87(2)(b) recounted that PO Raphael unintentionally struck him on the right side of his head with the handle of a knife while PO Raphael was cutting the string from his sweatshirt. § 87(2)(b) confirmed that he did not suffer any immediate injury and did not request medical attention as a result of being struck. However, a few days before his 911 call and his transport to the hospital, § 87(2)(b) began to experience headaches which he attributed to his having been struck in the head. Capt. Casazza noted that § 87(2)(b) was diagnosed with alcohol intoxication and discharged from the hospital.

In his brief CCRB phone statement about two and half months after the incident, § 87(2)(b) recounted that PO Raphael hit him in the head with a knife while cutting the strings on his sweatshirt (Board Review 14). § 87(2)(b) was suffering from depression and memory loss as a result of the incident.

§ 87(2)(b) provided an in-person statement to the CCRB approximately two months after the incident (Board Review 03). He recounted that PO Raphael was having difficulty cutting the left string of his sweatshirt, and that in the process PO Raphael struck him with the knife on the left temple, roughly between his left eye and his left ear. § 87(2)(b) brought his hands up to the left side of his head and said, “Yo, that shit hurts, man.” PO Raphael did not apologize for striking him or provide any explanation as to why he had done so. § 87(2)(b) thought that PO Raphael struck him intentionally. § 87(2)(b) stated that he was not under the influence of alcohol at the time of the incident.

§ 87(2)(b) reported that he did not sustain any cuts or bruising from being struck with the knife. He also said that he did not feel pain at the time, though he had remarked upon feeling pain to PO Raphael. He did not request any medical attention. A few days after the incident, § 87(2)(b) began to feel pain in the area where PO Raphael struck him. He was also suffering from headaches and memory loss, and he frequently itched the area where he was struck.

§ 87(2)(b) did not report to the CCRB that he was transported to a hospital or otherwise obtained medical treatment while in custody. However, NYPD documentation showed that his arresting officer from the 94th Precinct Detective Squad prepared an MTPR showing that § 87(2)(b) had an “apparent hernia in abdomen” and that he refused medical aid (Board Review 15). § 87(2)(b)'s Prisoner Pedigree Card also noted that he had a “sore leg” (Board Review 15). A second MTPR, prepared on November 20, 2018, showed that § 87(2)(b) was transported from BCB to § 87(2)(b) because he was “dope sick” (Board Review 15).

§ 87(2)(b) refused to sign HIPAA forms to allow the investigation to obtain his medical records. As a result, the investigation did not obtain any records from § 87(2)(b)'s visit to § 87(2)(b) shortly after the incident. § 87(2)(b) later returned to the CCRB to deliver hardcopies of various medical records and discharge papers. Some of the records were for medical treatment that § 87(2)(b) obtained prior to the incident, and other records were missing pages (Privileged Documents).

A single page from an unknown medical facility, dated § 87(2)(b) showed that § 87(2)(b) complained of migraines, dizziness, nausea, and blurry vision as a result of being struck in the head by police officers some time in November. He reported that the migraines were becoming progressively worse. The records are incomplete and therefore do not document the results of the visit.

A summary page from the § 87(2)(b) shows that § 87(2)(b) complained of migraine headaches on § 87(2)(b). The doctor ordered a CT scan to rule out intracranial hemorrhage. The scan showed no acute intracranial pathology or intracranial hemorrhage. The scan results noted the presence of a metallic mesh graft about § 87(2)(b)'s left orbital, which likely was used to address a prior fracture. § 87(2)(b)'s scan also showed a level of vermian atrophy out of proportion to his age, which is a typical feature of chronic alcohol excess. All the medical records provided by § 87(2)(b) indicate that medical staff suspected or determined that alcohol usage was a factor in his medical history.

PO Raphael recounted that one of the BCB staff members searching § 87(2)(b) advised him that the string from § 87(2)(b)'s hoodie needed to be removed (Board Review 04). The investigation identified the BCB staff member as Police Attendant Dominick Longo. § 87(2)(b) unsuccessfully attempted to remove the string himself. PA Longo told PO Raphael that the string would need to be cut out of the hoodie, and he handed PO Raphael a “rescue tool” to cut the string. PO Raphael described the tool as a curved, metal, blunt instrument which was about three inches long. PO Raphael explained that he had to apply pressure to the hoodie string with the rescue tool because the tool was blunt. At the time, § 87(2)(b) leaned over such that his head was level with PO Raphael’s hand which held the tool. PO Raphael severed the string, and the momentum of the string suddenly being severed led PO Raphael’s hand to hit the left side of § 87(2)(b)'s head. PO Raphael denied that the tool itself made contact with § 87(2)(b).

§ 87(2)(b) reacted to being struck by leaning lower and making a sound. PO Raphael asked § 87(2)(b) if he was all right, but § 87(2)(b) did not respond. § 87(2)(b) moved to the next area of the intake process, and later met with EMT personnel. The EMT personnel did not report to PO Raphael that § 87(2)(b) had complained to them of any injury, and PO Raphael lodged § 87(2)(b) in a cell before leaving BCB.

Capt. Casazza prepared a TRI report to document § 87(2)(b)'s allegation against PO Raphael (Board Review 05). As such, the report was not created until seven days after the incident. PO Raphael specified in his CCRB interview that he had never previously seen the report and had no role in its preparation. The report states that PO Raphael “unintentionally struck § 87(2)(b)'s] left temple with rescue tool while cutting strings off sweater.” When he viewed the report during his CCRB interview, PO Raphael reiterated that his hand, and not the rescue tool, made contact with § 87(2)(b)'s head.

Footage from a camera mounted in the intake search area shows that PA Longo gestured so as to indicate that § 87(2)(b)'s sweatshirt strings must be removed, and then handed a tool to PO Raphael after § 87(2)(b) and the officer were unable to remove the strings (Board Review 06). At the moment that PO Raphael began cutting the string, he was out of the camera’s view. Similarly, almost all of § 87(2)(b)'s head and the left side of his body were out of the frame. As a result, the footage does not show PO Raphael making contact with § 87(2)(b)'s head. However, it shows that § 87(2)(b) suddenly recoiled to his right, held his hand to his head, and bent over in apparent pain. PO Raphael held onto § 87(2)(b)'s left arm and also held the severed sweatshirt string.

Footage from additional cameras did not provide a clearer view of PO Raphael striking § 87(2)(b) (Board Review 07-09).

PA Longo was interviewed approximately seven months after the incident date (Board Review 10). He did not recall the incident. He confirmed that he typically gives a “safety blade” to officers for cutting strings in clothing. He described it as a curved blade with a blunt outer edge and a somewhat sharper inner edge. PA Longo viewed the video footage and said that he likely was not looking at § 87(2)(b) at the time PO Raphael made contact with his head.

§ 87(2)(g) [Redacted]

§ 87(2)(g) [Redacted]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) [Redacted] has been a party (Board Review 11).
- Officer John Raphael has been a member of the NYPD for two years and this is the first CCRB complaint to which he has been a subject (see officer history).

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of July 8, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (Board Review 12).

- § 87(2)(b) [Redacted]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date